

The regular meeting of the Municipal Civil Service Commission convened on Monday, May 20, 2002, at 8:30 a.m. with Priscilla Tyson, Grady Pettigrew and Elliot Fishman present.

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RE: *Review and approval of the April 29, 2002, Regular Commission Meeting minutes.*

The minutes were approved as written.

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RE: *Review of the results of the pre-hearing conferences for the following appeals:*

- a. *Billie G. Lee vs. City of Columbus, Department of Public Safety, Division of Fire, Appeal No. 02-CA-0003, Fire Battalion Chief – 48 Hour Suspension – Hearing scheduled for June 24, 2002.*
- b. *Shirley King vs. Columbus Public Schools, Appeal No. 02-BA-0004, Intervention Aide - Discharge – Trial Board scheduled for July 15, 2002*

PRESENT: Theresa Lynn Carter, Deputy Executive Director

Lynn Carter appeared before the Commissioners and reported on the results of two pre-hearing conferences held earlier today.

Billie G. Lee, Fire Battalion Chief, was suspended for 48 hours for insubordination. D. Chad McKittrick will represent Mr. Lee and anticipates calling eight to nine witnesses. Mr. McKittrick requested various discovery documents from Michael Matuska, counsel for the City. Mt. Matuska anticipates calling six of the same witnesses Mr. McKittrick will call plus another two or three witnesses. Both parties anticipate the hearing should take one full day and therefore requested a continuance of the June 24 hearing. The Commissioners granted the request for a continuance and the hearing will be scheduled to begin at 9:00 a.m. on another date.

Shirley King, Intervention Aide, Columbus Public Schools was discharged. It is the policy of Columbus Public Schools to automatically discharge anyone who is on disability leave for two years. Ms. King may have feared loss of benefits if the appeal was not filed. Mr. Drabick, OAPSE, is trying to meet with Ms. King and her worker's compensation attorney. It is believed this trial board will not go forward on July 15 but if it does, it should not last longer than one to two hours.

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RE: *Rule Revisions*

No rule revisions were submitted this month.

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RE: *Request of the Civil Service Commission staff to revise the Background Removal standards for Police Officers, Police Communication Technicians and Firefighters.*

PRESENT: Theresa Lynn Carter, Deputy Executive Director

Lynn Carter appeared before the Commissioners to request adoption of a new Section I for the background removal standards for applicants' failure to appear for pre-interviews, polygraphs, medical appointments or any other step in the selection process. Applicants have previously been removed under Civil Service Commission Rule VI. The reason for incorporating failure to appear (FTA) in the standards is for record keeping and statistics. The Commission has kept separate statistics on background removals and FTAs. The divisions of police and fire have begun using standard A.4 (failure or refusal to answer written or oral questions) to remove applicants who do not complete and return their background questionnaires by the deadline specified. However, this standard was not intended for that purpose. It was intended for applicants who refuse to answer a polygraph questions or those who might leave a section on the questionnaire blank because of potentially disqualifying information. Use of this standard for FTA applicants makes it difficult to separate the background removals from the FTAs. In addition, having the Police and Fire Divisions use the standards for all removals will simplify the process.

A motion to approve the request was made, seconded, and passed unanimously.

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RE: *Trial Board Recommendations*

No trial board recommendations were submitted this month.

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RE: *Request of the Columbus Public Schools to revise the specification for the classification Maintenance Roofer (Class Code 581).*

PRESENT: Reamus Martin and Jackie Chapman, Columbus Public Schools

The Columbus Public Schools requested the Commission to approve revisions to the Maintenance Roofer specification to reflect new duties related to monitoring and reporting on contract work and on materials and workmanship warranties. The revisions to the requirements reflected the increased education level needed to read and understand warranty information and to maintain computer records and correspondence related to their duties. The addition of one year of experience, for a total of four years, reflects the U.S. Department of Labor changing the apprenticeship-training period from two to three years for this work.

A motion to approve the request was made, seconded, and passed unanimously.

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RE: *Request of the Columbus Public Schools to revise the specification for the classification Audiovisual Processor (Class Code 171).*

PRESENT: Reamus Martin and Jackie Chapman, Columbus Public Schools

The Columbus Pubic Schools requested the Commission to approve revisions to the Audiovisual Processor specification to more accurately reflect changes in duties and technology with respect to the classification. Incumbents in this classification utilize equipment that is much more sophisticated than that used when the classification was last reviewed.

A motion to approve the request was made, seconded, and passed unanimously.

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RE: *Request of the Civil Service Commission staff to revise the specification for the classification Street Maintenance Investigator (Class Code 1002).*

This item was deferred.

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RE: *Request of the Civil Service Commission staff to revise the specification for the classification Building Maintenance Manager (Class Code 3497).*

PRESENT: Tamira Rollins, Personnel Administrative Officer

Tamira M. Rollins presented a request from Linda Page, Public Service Director, to revise the specification for the classification Building Maintenance Manager. There are currently five positions allocated to this classification in the Division of Fire, Public Safety Department, Facilities Management Division of the Public Service Department and the Recreation and Parks Department. This specification was last updated in November of 2001.

The Facilities Management Division uses this specification in their contract operations group. Incumbents in this position oversee contractors and contracts related to building maintenance, which requires experience in working with contracts and establishing and maintaining productive relationships with contractors. For this reason it was recommended that “or maintenance contracting” experience be added to the minimum qualifications.

No revisions were recommended to the definition, examples of work, knowledge, skills and abilities, probationary period or examination type.

A motion to approve the request was made, seconded, and passed unanimously.

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RE: *Request of the Civil Service Commission staff to impose a hiring moratorium on the specification for the classification Traffic Maintenance Assistant Manager (Class Code 4028).*

This item was deferred.

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RE: *Request of the Civil Service commission staff to revise the specification for the classification Traffic Line Worker Supervisor, retitle it to read Traffic Line Supervisor I, change the probationary period to 365 days and amend Rule XI accordingly (Class Code 4026).*

This item was deferred.

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RE: *Residency Hearing Reviews*

No residency hearing reviews were submitted this month.

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RE: *Personnel Actions*

No personnel actions were submitted this month.

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RE: *Administrative/Jurisdictional Reviews*

Review of the appeal of Donald Bugg regarding his resignation from the position of Account Clerk at the Columbus Public Schools. Appeal No. 02-BA-0007.

The Commissioners approved the written recommendation submitted by the Civil Service Commission staff that nothing in the documents submitted by the Columbus Public Schools, nor in Mr. Bugg's signed resignation statement, suggested that his resignation was coerced, based upon false information or involuntary. The Civil Service Commission rules do not provide the right to appeal a resignation. Based on these findings, the Commission decided to dismiss his appeal without a hearing due to lack of jurisdiction.

Review of the appeal of Tyrone Taylor regarding the denial of his request for a temporary withdrawal from the Maintenance Carpenter eligible list at the Columbus Public Schools.

The Commissioners approved the written recommendation submitted by the Civil Service Commission staff that, given the lack of clarity in the documentation provided by the Columbus Public Schools during the selection process, Mr. Taylor's request for a temporary withdrawal should have been granted. The Commission, therefore, decided to grant Mr. Taylor's appeal to have his name reinstated to the Maintenance Carpenter eligible list.

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RE: *Background Administrative Reviews*

Firefighter Applicants Removed During the Pre-Screening Process	
Jason Carter	Traffic (E.5)
Christopher Groves	Substance Abuse (H.2)
Roland Jefferson	Criminal Activity (G.4)
John Layton	Substance Abuse (H.1)
Allan K. McCloud	Traffic (E.2)
Jeffrey Palmer	Traffic (E.2)
John Ritchey	Traffic (E.5)
Jacob Rowe	Substance Abuse (H.2)
Darryl Williams	Traffic (E.5)

The Commissioners reviewed the files of nine firefighter applicants for an administrative review of the decision of the Executive Director to reject their applications due to a violation of the background standards for police officers during the pre-screening process.

After reviewing the files of Jason Carter, Christopher Groves, Roland Jefferson, John Layton, Allan K. McCloud and Darryl Williams, the Commissioners decided that their applications would not be accepted and they would not be permitted to take the firefighter examination. After reviewing the files of Jeffrey Palmer, John Ritchey and Jacob Rowe, the Commissioners decided their applications would be accepted and they would be permitted to take the firefighter examination.

Police Officer Applicants Removed During the Pre-Screening Process	
Gregory Cody	Criminal Activity (G.4)
Joseph I. Flossie	Traffic (E.5)

The Commissioners reviewed the files of two police officer applicants for an administrative review of the decision of the Executive Director to reject their applications due to a violation of the background standards for police officers during the pre-screening process.

After reviewing the files of Gregory Cody and Joseph I. Flossie, the Commissioners decided that their applications would not be accepted and they would not be permitted to take the police officer examination.

Background Administrative Reviews April 11, 2002		
Amber L. Elson	Police Officer	02-BR-016

After reviewing Amber L. Elson's file, the Commissioners decided her name would be reinstated to the police officer's eligible list.

Background Administrative Reviews April 18, 2002		
Terry W. Reed	Police Officer	02-BR-025

After reviewing Terry W. Reed's file, the Commissioners decided his name would be reinstated to the police officer's eligible list.

Background Administrative Reviews May 9, 2002		
Julia K. Womack	Police Officer	02-BR-028
Jason M. Davis	Police Officer	02-BR-029
Kevin A. Kirkpatrick	Police Officer	02-BR-030
Clifford R. Porter	Police Officer	02-BR-031
Alan J. Lashley	Police Officer	02-BR-032
Ruben Perez	Police Officer	02-BR-033
Elek A. Hiss	Police Officer	02-BR-034

After reviewing the files of Julia K. Womack, Jason M. Davis, Kevin A. Kirkpatrick, Clifford R. Porter, Alan J. Lashley and Elek A. Hiss, the Commissioners decided their names would not be reinstated

to the police officer eligible list. After reviewing Ruben Perez' file, the Commissioners decided his name would be reinstated to the police officer eligible list.

Background Administrative Reviews

May 9, 2002

Tyler J. Cobb	Police Officer	02-BR-035
Andrea E. Zeiber	Police Officer	02-BR-036
Benjamin W. Roush	Police Officer	02-BR-037
Chaim H. Respes	Police Officer	02-BR-038
Robert G. Nolan	Police Officer	02-BR-039

After reviewing the files of Benjamin W. Roush and Chaim H. Respes, the Commissioners decided their names would not be reinstated to the police officer eligible list. After reviewing the files of Tyler J. Cobb, Andrea E. Zeiber and Robert G. Nolan, the Commissioners decided their names would be reinstated to the police officer eligible list.

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The Commissioners adjourned their regular meeting at 1:20 p.m. to hear a police officer disciplinary appeal.

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RE: *Hearing on the merits of the appeal of Terry McClary, from the action of the Department of Public Safety, Division of Police, suspending him for 120 hours from the position of Police Officer – Case No. 01-CA-0001.*

Commission President Tyson read the charges and specifications into the record.

Charge I: You are hereby charged with violating **Rule of Conduct 1.36**, which reads, “Division personnel are to conduct themselves at all times, both on and off duty, in such a manner as to reflect favorably on the Division. Unbecoming conduct is behavior that implicitly or explicitly brings the Division into disrepute, reflects discredit upon the individual as a member of the Division, or impairs the operation or efficiency of the Division or the individual. This includes, but is not limited to, derogatory comments, gestures, or insinuations.”

Specification I: On or about **February 22, 2000**, while on duty and in the presence of other Division personnel, you engaged in conduct which reflected discredit upon you as a member of the Division, to wit: you made a threatening statement toward Lieutenant Larry Champlin, a superior officer in your chain of command, which was construed by others that you would shoot Lieutenant Champlin in the head. Such statements are in violation of the City of Columbus Policy Regarding Workplace Violence.

Specification II: On or about **February 22, 2000**, while on duty and in the presence of other Division personnel, you engaged in conduct which reflected discredit upon you as a member of the Division, to wit: you referred to Judge Lisa Sadler as a “cunt”.

Specification III: On or about **March 30, 2000**, you engaged in conduct which reflected discredit upon you as a member of the Division, to wit: you had recorded and were utilizing a voice mail greeting on your assigned Division telephone extension accessible to the public and other Division personnel. Your greeting ridiculed and criticized the Division and your chain of command, to wit: your greeting stated, “Hey . . . happy holidays, I’m not here right now, I’m plotting to overthrow this fascist regime I work for. So, leave a message and I’ll get back to you.”

Specification IV: On several occasions, while on duty and in the presence of other Division personnel, you engaged in conduct which reflected discredit upon you as a member of the Division, to wit: you made threatening statements about “blowing things up” and “blowing the place up.” Such statements are in violation of the City of Columbus Policy Regarding Workplace Violence.

Appearances and preliminary matters were handled. Assistant City Attorney Alan Varhus and John Waddy, attorney for Officer Terry McClary, gave opening statements.

Terry McClary - Assistant City Attorney Varhus called Mr. McClary on direct examination. Mr. McClary was sworn in by President Tyson and examined on direct by Mr. Varhus. Mr. Waddy waived cross examination at this time and the witness was excused.

Lisa J. Brown – Assistant City Attorney Varhus called Police Officer Lisa J. Brown on direct examination. Ms. Brown was sworn in by President Tyson, examined on direct by Mr. Varhus, cross-examined by Mr. Waddy, examined on re-direct by Mr. Varhus, answered questions from the Commissioners and was excused.

Claud Roush – Assistant City Attorney Varhus called Police Officer Claud Roush on direct examination. Mr. Roush was sworn in by President Tyson, examined on direct by Mr. Varhus, cross-examined by Mr. Waddy, answered questions from the Commissioners and was excused.

Assistant City Attorney Varhus rested his case.

Brett Britton – John Waddy called Police Officer Brett Britton on direct examination. Mr. Britton was sworn in by President Tyson, examined on direct by Mr. Waddy and answered questions from the Commissioners. Mr. Varhus waived cross-examination and the witness was excused.

Curt Edmondson – John Waddy called Police Officer Curt Edmondson on direct examination. Mr. Edmondson was sworn in by President Tyson, examined on direct by Mr. Waddy, cross-examined by Mr. Varhus and was excused.

Mary Battle – John Waddy called Police Officer Mary Battle on direct examination. Ms. Battle was sworn in by President Tyson, examined on direct by Mr. Waddy, cross-examined by Mr. Varhus and excused.

Andre Jones – John Waddy called Police Officer Andre Jones on direct examination. Mr. Jones was sworn in by President Tyson, examined on direct by Mr. Waddy, cross-examined by Mr. Varhus and was excused.

Terry McClary – John Waddy called appellant Police Officer Terry McClary on direct examination. Mr. McClary was examined on direct by Mr. Waddy, cross-examined by Mr. Varhus, answered questions from the Commissioners, examined on re-direct by Mr. Waddy and excused.

Mr. Waddy rested his case.

Mr. Varhus and Mr. Waddy presented their closing statements and the hearing was adjourned at 4:30 p.m.

The Commissioners reconvened the hearing at 4:50 p.m.

DECISION

The Commission, in a unanimous decision, found Officer McClary guilty of Charge I, Specification III, and not guilty of Charge I, Specifications I, II and IV. Based on the foregoing, the Commission modified the action of the appointing authority from a 120-hour suspension to a written reprimand.

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The Commission adjourned its hearing at 4:55 p.m.

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Priscilla R. Tyson, Commission President

June 24, 2002

Date